

By: Shapleigh

S.B. No. 10

A BILL TO BE ENTITLED

1 AN ACT

2 relating to a health coverage or compensation supplementation  
3 program for active school employees.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Chapter 1580, Insurance Code, is reenacted to  
6 read as follows:

7 CHAPTER 1580. ACTIVE EMPLOYEE HEALTH COVERAGE

8 OR COMPENSATION SUPPLEMENTATION

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 1580.001. DEFINITIONS. In this chapter:

11 (1) "Cafeteria plan" means a plan as defined and  
12 authorized by Section 125, Internal Revenue Code of 1986, and its  
13 subsequent amendments.

14 (2) "Employee" means a participating member of the  
15 Teacher Retirement System of Texas who:

16 (A) is employed by a school district, other  
17 educational district whose employees are members of the Teacher  
18 Retirement System of Texas, participating charter school, or  
19 regional education service center; and

20 (B) is not a retiree covered under the program  
21 established under Chapter 1575.

22 (3) "Participating charter school" means an  
23 open-enrollment charter school established under Subchapter D,  
24 Chapter 12, Education Code, that participates in the program

1 established under Chapter 1579.

2 (4) "Regional education service center" means a  
3 regional education service center established under Chapter 8,  
4 Education Code.

5 (5) "Trustee" means the Teacher Retirement System of  
6 Texas.

7 Sec. 1580.002. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

8 (a) The trustee may adopt rules to implement this chapter.

9 (b) The trustee may enter into interagency contracts with  
10 any agency of this state for the purpose of assistance in  
11 implementing this chapter.

12 [Sections 1580.003-1580.050 reserved for expansion]

13 SUBCHAPTER B. DISTRIBUTION OF STATE FUNDS BY TRUSTEE

14 Sec. 1580.051. DISTRIBUTION BY TRUSTEE. Each year, the  
15 trustee shall deliver to each school district, including a school  
16 district that is ineligible for state aid under Chapter 42,  
17 Education Code, each other educational district that is a member of  
18 the Teacher Retirement System of Texas, each participating charter  
19 school, and each regional education service center state funds in  
20 an amount, as determined by the trustee, equal to the product of the  
21 number of active employees employed by the district, school, or  
22 service center multiplied by \$1,000 or a greater amount as provided  
23 by the General Appropriations Act for purposes of this chapter.

24 Sec. 1580.052. EQUAL INSTALLMENTS. The trustee shall  
25 distribute funds under this chapter in equal monthly installments.

26 Sec. 1580.053. FUNDS HELD IN TRUST. All funds received by a  
27 school district, other educational district, participating charter

1 school, or regional education service center under this chapter are  
2 held in trust for the benefit of the active employees on whose  
3 behalf the district, school, or service center received the funds.

4 Sec. 1580.054. RECOVERY OF DISTRIBUTIONS. The trustee is  
5 entitled to recover from a school district, other educational  
6 district, participating charter school, or regional education  
7 service center any amount distributed under this chapter to which  
8 the district, school, or service center was not entitled.

9 Sec. 1580.055. DETERMINATION OF TRUSTEE FINAL. A  
10 determination by the trustee under this subchapter is final and may  
11 not be appealed.

12 [Sections 1580.056-1580.100 reserved for expansion]

13 SUBCHAPTER C. EMPLOYEE ELECTION

14 Sec. 1580.101. EMPLOYEE COVERED BY CAFETERIA PLAN. (a) If  
15 an active employee is covered by a cafeteria plan of a school  
16 district, other educational district, participating charter  
17 school, or regional education service center, the state  
18 contribution under this chapter shall be deposited in the cafeteria  
19 plan, and the employee may elect among the options provided by the  
20 cafeteria plan.

21 (b) A cafeteria plan receiving state contributions under  
22 this chapter may include a medical savings account option and must  
23 include, at a minimum, the following options:

- 24 (1) a health care reimbursement account;
- 25 (2) a benefit or coverage other than that provided  
26 under Chapter 1579, or any employee coverage or dependent coverage  
27 available under Chapter 1579 but not otherwise fully funded by the

1 state or the employer contributions, any of which must be a  
2 "qualified benefit" under Section 125, Internal Revenue Code of  
3 1986, and its subsequent amendments;

4 (3) an option for the employee to receive the state  
5 contribution as supplemental compensation; or

6 (4) an option to divide the state contribution among  
7 two or more of the other options provided under this subsection.

8 Sec. 1580.102. EMPLOYEE NOT COVERED BY CAFETERIA PLAN. If  
9 an active employee is not covered by a cafeteria plan of a school  
10 district, other educational district, participating charter  
11 school, or regional education service center, the state  
12 contribution under this chapter shall be paid to the active  
13 employee as supplemental compensation.

14 Sec. 1580.103. SUPPLEMENTAL COMPENSATION. Supplemental  
15 compensation under this subchapter must be in addition to the rate  
16 of compensation that:

17 (1) the school district, other educational district,  
18 participating charter school, or regional education service center  
19 paid the employee in the preceding school year; or

20 (2) the district, school, or service center would have  
21 paid the employee in the preceding school year if the employee had  
22 been employed by the district, school, or service center in the same  
23 capacity in the preceding school year.

24 Sec. 1580.104. TIME FOR ELECTION. For each state fiscal  
25 year, an election under this subchapter must be made before the  
26 later of:

27 (1) August 1 of the preceding state fiscal year; or

1 (2) the 31st day after the date the employee is hired.

2 Sec. 1580.105. WRITTEN EXPLANATION; ELECTION FORM. (a)  
3 The trustee shall prescribe and distribute to each school district,  
4 other educational district, participating charter school, and  
5 regional education service center:

6 (1) a model explanation written in English and Spanish  
7 of the options active employees may elect under this section and the  
8 effect of electing each option; and

9 (2) an election form to be completed by active  
10 employees.

11 (b) Each state fiscal year, a school district, other  
12 educational district, participating charter school, or regional  
13 education service center shall prepare and distribute to each  
14 active employee a written explanation in English and Spanish, as  
15 appropriate, of the options the employee may elect under this  
16 section. The explanation must be based on the model explanation  
17 prepared by the trustee under Subsection (a) and must reflect all  
18 available health coverage options available to the employee. The  
19 explanation must be distributed to an employee before the later of:

20 (1) July 1 of the preceding state fiscal year; or

21 (2) the fifth day after the date the employee is hired.

22 (c) The written explanation under Subsection (b) must be  
23 accompanied by a copy of the election form prescribed under  
24 Subsection (a)(2).

25 Sec. 1580.106. RETURN OF UNENCUMBERED FUNDS. Any  
26 unencumbered funds that are returned to the school district from  
27 accounts established under Section 1580.101 may be used only to

1 provide employee compensation, benefits, or both.

2 [Sections 1580.107-1580.150 reserved for expansion]

3 SUBCHAPTER D. MEDICAL SAVINGS ACCOUNT

4 Sec. 1580.151. DEFINITION. In this subchapter, "qualified  
5 health care expense" means an expense paid by an employee for  
6 medical care, as defined by Section 213(d), Internal Revenue Code  
7 of 1986, and its subsequent amendments, for the employee or the  
8 employee's dependents, as defined by Section 152, Internal Revenue  
9 Code of 1986, and its subsequent amendments.

10 Sec. 1580.152. RULES. The trustee, by rule, shall specify  
11 the requirements for a medical savings account established under  
12 this chapter.

13 Sec. 1580.153. QUALIFICATION OF ACCOUNT. (a) The trustee  
14 shall request in writing a ruling or opinion from the Internal  
15 Revenue Service as to whether the medical savings accounts  
16 established under this chapter and the state rules governing those  
17 accounts qualify the accounts for appropriate federal tax  
18 exemptions.

19 (b) Based on the response of the Internal Revenue Service  
20 under Subsection (a), the trustee shall:

21 (1) modify the rules, plans, and procedures adopted  
22 under this section as necessary to ensure the qualification of  
23 those accounts for appropriate federal tax exemptions; and

24 (2) certify the information regarding federal tax  
25 qualifications to the comptroller.

26 Sec. 1580.154. EMPLOYEE ELECTION. An employee who elects  
27 under Section 1580.101 to have state funds distributed under this

1 chapter placed in a medical savings account may use the money in  
2 that account only for a qualified health care expense.

3 SECTION 2. The following laws are repealed:

4 (1) Section 57, Chapter 201, Acts of the 78th  
5 Legislature, Regular Session, 2003; and

6 (2) Chapter 313, Acts of the 78th Legislature, Regular  
7 Session, 2003.

8 SECTION 3. (a) This Act takes effect immediately if it  
9 receives a vote of two-thirds of all the members elected to each  
10 house, as provided by Section 39, Article III, Texas Constitution.  
11 If this Act does not receive the vote necessary for immediate  
12 effect, this Act takes effect on the 91st day after the last day of  
13 the legislative session.

14 (b) The changes in law made by this Act apply beginning with  
15 the 2004-2005 school year.